



San Diego City Attorney **MICHAEL J. AGUIRRE**

NEWS RELEASE

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CITY ATTORNEY RESPONDS TO CITY MANAGER'S COMMENTS REGARDING TODAY'S PENSION RULING

The outrageous statement released by City Manager Lamont Ewell reflects his complete lack of understanding of the legal issues decided at today's hearing in *People v. Grissom*. The issue of whether the City has a duty to provide legal representation to City employees was not the subject of today's hearing. The only issue addressed today was whether City employees and trustees responsible for the administration of the pension plan had a prohibited financial interest in their agreement to underfund the City employee's pension plan which is \$1.7 billion in the hole.

It is ironic that Ewell raises the issue of an inherent conflict of interest. Whether the City is obligated to pay the legal fees of defendants is the subject of an entirely separate lawsuit, *Torres, et al. v. City of San Diego*. It was Ewell who convinced the City Council to release a privileged legal opinion related to that matter which was prepared by attorney Steven Strauss from the law firm of Procopio Cory Hargreaves & Savitch. Today, Strauss appeared as counsel for the defendants in the *People v. Grissom* case, which he previously analyzed on the City's behalf. His opinion, which says that the City has a duty to provide legal counsel for the defendants, is now being used against the City in the *Torres* lawsuit.

Furthermore, the City Manager had a personal role in sustaining unfunded pension benefits. Recently obtained records show that Ewell supervised the creation of a questionable memorandum in 2002 designed to discredit whistleblower Diann Shipione's presentation at the November 18, 2002 meeting of the City Council. At that meeting, Shipione warned Councilmembers that the pension benefits could not be adequately funded and that the scheme would jeopardize the safety of the City Employees' Retirement System.

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